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| 10/580,939  | 05/30/2006  | Robin Miheckun Miller | 60469-094PUS1;<br>OT-5208LAB | 8921             |
| 64779 7590 04/01/2009<br>CARLSON GASKEY & OLDS<br>400 W MAPLE STE 350<br>BIRMINGHAM, MI 48009 |             |                       |                              |                  |
| EXAMINER  |             |                       |                              |                  |
| KRUER, STEFAN   |             |                       |                              |                  |
| ART UNIT  |             | PAPER NUMBER          |                              |                  |
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/580,939

**Applicant(s)**

MILLER ET AL.

**Examiner**

Stefan Krueer

**Art Unit**

3654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 January 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 - 4, 7 - 16 and 18 - 21 is/are pending in the application.
- 4a) Of the above claim(s) 14 - 16 and 18 - 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 - 4, 7 - 13 and 21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date (1).
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**Claim 7** is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claim 7** recites its dependency from cancelled **Claim 6** and is therefore indefinite. For purpose of prosecution, **Claim 7** will be understood as depending from **Claim 1**.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claim 8** is rejected under 35 U.S.C. 102(b) as being anticipated by Rivera.

- a first material body (118, Col. 3, L. 31) having a nose portion (142);
- a second material (116) secured to at least some of the nose portion; and
- a bonding agent (132, 134, 136) adhesively ("snap fit", e.g., tending to adhere or cause adherence) securing the second material to the nose portion.

**Claims 8 and 10 – 12** are rejected under 35 U.S.C. 102(b) as being anticipated by Mier (5,061,829).

**Re: Claims 8 and 10 – 12**, Mier discloses a guide rail (106) *for use in an elevator system*, comprising:

- a first material body (10, Fig. 2, Col. 2, L. 9) having a nose portion (28); and

- a second material (12, Col. 2, L. 9 and Col. 5, L. 14) secured to at least some of the nose portion; and
- a bonding agent (26, 34, Fig. 3 and 20, 16, Fig. 9) adhesively (e.g., tending to adhere or cause adherence) secures said second material to said nose portion;
- wherein the nose portion has a guiding surface on opposite sides of the nose portion and a braking region near an end of the nose portion and wherein the second material is only on the braking region of the nose portion and the first material is exposed along a remainder of the guiding surface of the nose portion that does not include the second material.
- wherein the second material is a covering (18) that comprises a steel sheet (12) (said covering) extending over the braking region on each side of the nose portion.
- wherein the covering extends along an entire longitudinal length of the nose portion.

**Claim 13** is rejected under 35 U.S.C. 102(b) as being anticipated by Eames (2,228,227).

Eames a guide rail (13, Fig. 1) for use in an elevator system, comprising:

- a first material body (19, 15, 16, 18) having a nose portion (15, 18); and
- a second material (17) secured to at least some of the nose portion, wherein the body comprises a generally planar base portion (16) that is adapted to be secured to a stationary structure (11) and the nose portion extends away from the base portion at an oblique angle (along 15, 18) such that parallel and opposite facing sides (inner/outer sides of 15 and 18) of the nose portion are oriented at the oblique angle relative to the generally planar base portion.

In **Claim 13**, an element that is "adapted to" perform a function is not a positive limitation and only requires the ability to so perform, in re Hutchinson 69 USPQ 138.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1 – 4, 7 – 9 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Rivera (5,690,190) in view of Marteness (4,292,110).

**Re: Claims 1 – 4, 7 - 9 and 21**, Rivera discloses a guide rail (106) for use in an elevator system (102, 104), comprising:

- a first material body (118, Col. 3, L. 31) having a nose portion (142); and
- a second material (116) secured to at least some of the nose portion, wherein the second material comprises steel (Col. 3, L. 48)
- wherein the second material establishes a covering that extends along an entire longitudinal length of the guide rail covering at least some of the nose portion;
- wherein the second material comprises a steel sheet that is shaped to conform to the nose portion and including a bonding agent (132, 134, 136) between the steel sheet and the nose portion, wherein his bonding agent adhesively (e.g., tending to adhere or cause adherence) secures said second material to said nose portion;
- wherein the nose portion includes at least one recess (128) and the second material has a portion (136) extending at least partially into the recess;
- an insulating layer (Col. 3, L. 65 - Col. 4, L. 14) between the nose portion and the second material; and
- wherein the first material comprises aluminum (Col. 3, L. 31); however,

Rivera is silent with respect to a material of construction of his an insulating layer(s), other than that the insulating layer(s) may be "... optimized to provide other benefits... such as damping".

Attention is directed to Marteness who teaches his "fabric-reinforcing bonding sheet... to make an insulated rail joint", wherein his boding sheet comprises "... at least one layer of a reinforcing fabric saturated with an intimate blend of ... epoxy resin", wherein further "loosely woven glass cloth... can be readily saturated with a melted resin... is preferred..." (Col. 3, L. 1), as an inexpensive, low temperature adhesive bonding agent that reaches "... full strength quickly... when heated to moderately elevated temperatures"

It would have been obvious to one of ordinary skill in the art to modify the reference of Rivera with the teaching of Marteness for the benefits of facilitating installation and start-up.

**Claims 1 – 4, 7 - 9 and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Mier in view of Marteness.

**Re: Claims 1 – 4, 7 - 9 and 21**, Mier discloses a guide rail (106) *for use in an elevator system*, comprising:

- a first material body (10, Fig. 2, Col. 2, L. 9) having a nose portion (28); and
- a second material (12, Col. 2, L. 9 and Col. 5, L. 14) secured to at least some of the nose portion, wherein the second material comprises steel;
- wherein the second material establishes a covering that extends along an entire longitudinal length of the guide rail covering at least some of the nose portion (Fig.'s 8 and 9);
- wherein the second material comprises a steel sheet that is shaped to conform to the nose portion and including a bonding agent (26, 34, Fig. 3 and 20, 16, Fig. 9) between the steel sheet and the nose portion wherein his bonding agent adhesively (e.g., tending to adhere or cause adherence) secures said second material to said nose portion;

- wherein the nose portion includes at least one recess (26) and the second material has a portion (24) extending at least partially into the recess;
- an insulating layer (32) between the nose portion and the second material; and
- wherein the first material comprises aluminum (Col. 2, L. 9); however

Mier is silent with respect to his insulating layer comprising a fiber mesh.

Attention is directed to Marteness who teaches his "fabric-reinforcing bonding sheet... to make an insulated rail joint", wherein his boding sheet comprises "... at least one layer of a reinforcing fabric saturated with an intimate blend of ... epoxy resin", wherein further "loosely woven glass cloth... can be readily saturated with a melted resin... is preferred..." (Col. 3, L. 1), as an inexpensive, low temperature adhesive bonding agent that reaches "... full strength quickly... when heated to moderately elevated temperatures"

It would have been obvious to one of ordinary skill in the art to modify the reference of Mier with the teaching of Marteness for facilitating installation and start-up.

### ***Response to Arguments***

Applicant's arguments filed 7 January 2009 have been fully considered but they are not persuasive.

The rejections of the previous office action were in response to the claim language. Applicant's arguments are in part based on the amended claim language applied to the prior art of record; consequently, this office action comprises a detailed response to Applicant's arguments.

With respect to a mechanical bonding agent not having any adhesive properties, the "snap fit" securing means of Rivera anticipates the claim language as interpreted.

The reference of Matsui as previously cited was referenced for teachings of bonding dissimilar materials comprising rails.

Applicant has not traversed the anticipatory rejections of **Claims 1 – 5, 8 and 21** in view of the prior art of record, Mier, of the previous office action.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stefan Krueer whose telephone number is 571.272.5913. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo can be reached on 571.272.6856. The fax phone number for the organization where this application or proceeding is assigned is 571.273.8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866.217.9197 (toll-free).



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/Stefan Kruer/

Examiner, Art Unit 3654

23 March 2009

/Peter M. Cuomo/

Supervisory Patent Examiner, Art Unit 3654